

United States District Court

NORTHERN

FILED DISTRICT OF

CALIFORNIA

2001 MAY 16 P 2:59

UNITED STATES OF AMERICA

V.

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

CRIMINAL COMPLAINT

David MARTINEZ-PALOS

E-FILING

(Name and Address of Defendant)

CASE NUMBER:

07 70282 HRL

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, March 23, 2007, in Monterey County in the Northern District of California defendant(s)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326
 I further state that I am a(n) Deportation Officer and that this complaint is based on the following
 Official Title
 facts:

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, twenty years imprisonment and \$100.00 special assessment fee and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant.

APPROVED AS TO FORM:

Brynn T. Kennedy

ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: Yes No

Darin Santa

Signature of Complainant

Sworn to before me and subscribed in my presence,

5/16/07

Date

at

San Jose, California

City and State

Howard R. Lloyd
UNITED STATES MAGISTRATE JUDGE

Name & Title of Judicial Officer

Signature of Judicial Officer

RE: MARTINEZ-PALOS, David**A 092 795 282**

I, Darin L. Masterton, am a Deportation Officer of the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE). I have been employed by this agency, and the former Immigration and Naturalization Service (INS), since September 15, 1996. I am currently assigned to the Criminal Alien Program (CAP) at the San Jose, California Sub-Office. In such capacity, I have reviewed the official immigration "A-File" relating to the above named defendant, which attests to the following:

- (1) DEFENDANT: David MARTINEZ-PALOS is a 44-year-old male, citizen and native of Mexico, born on December 19, 1962, in Calientes, Mexico, substantiated by official A-File records, and statements given by the DEFENDANT on March 23, 2007, to ICE Immigration Enforcement Agent Stephen Miller;
- (2) The DEFENDANT has been assigned Alien Registration number of A092 795 282, FBI number of 721695AB4, California Criminal Information Index number of A11174222;
- (3) The DEFENDANT is also known by the following alias ("AKAs") names on his conviction documents:

David MARTINEZ

- (4) On July 21, 2004, the DEFENDANT was convicted in the Superior Court of California, for the offense of ASSAULT WITH A DEADLY WEAPON, to wit, a PIPE, a felony, in violation of California Penal Code Section 245(a)(1), and was sentenced to three years in state prison. This offense is defined as an aggravated felony under Title 8, United States Code, Section 1101(a)(43)(F);
- (5) On April 4, 2005, the DEFENDANT was arrested by ICE and deported from the United States to Mexico;
- (6) On March 23, 2007, the DEFENDANT was encountered by ICE Immigration Enforcement Agent (IEA) Stephen Miller at Monterey County Jail, Salinas, California, and determined to be unlawfully present in the United States after a prior deportation. IEA Miller advised the DEFENDANT of his Miranda rights in the Spanish language. The DEFENDANT waived his Miranda rights and provided a written sworn statement attesting to his alienage, prior deportation, and failure to obtain permission from the Secretary of the Department of Homeland Security or the United States Attorney General to reenter the United States;

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- (7) The DEFENDANT's official A-File does not contain any record or indication that the DEFENDANT requested or received permission from the Secretary of the Department of Homeland Security or the Attorney General of the United States to reenter the United States;
 - (8) Based on the above stated information, this Officer believes there is sufficient probable cause that the DEFENDANT is present within the United States in violation of Title 8, United States Code, Section 1326.


Darin L. Masterton
Deportation Officer
Immigration and Customs Enforcement

Subscribed and sworn to before me this 16 day of May, 2007.

Howard R. Lloyd
UNITED STATES MAGISTRATE JUDGE